IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.3157 OF 2005

IN

SUMMARY SUIT NO.2090 OF 2003

...

Shree Vallabh Corporation ....Plaintiff

v/s.

M/s.D.Jagjivan Das & co. ....Defendant

...

Mr.Naushad Engineer i/b RMG Law Associates for the Plaintiff.

Mr.J.V.Parmar for the Defendant.

...

CORAM: D.K.DESHMUKH, J.

DATED: 11TH JUNE, 2007

P.C.:

1. This Notice of Motion is taken out by the Plaintiff for setting aside the order dated 19th

September, 2005 passed by the court, whereby the summons for judgment has been disposed of and unconditional leave to defend the suit has been granted to the Defendant.

2. The Court disposed of the summons for judgment because the advocate for the Plaintiff was not appearing. In the affidavit filed in support of the motion serious and grave allegations have been made against the advocate who was appearing for the Plaintiff earlier. But those allegations have been made even without issuing any letter to that advocate asking him whey he did not appear before the court. That advocate has also not been joined as party to this Notice of Motion. Even a copy of this Notice of Motion has not been served on that advocate.

3. The allegations made are of serious nature and obviously inquiry of those allegations cannot be made in the absence of the lawyer. Without giving a notice or joining him as a party to the Notice of Motion, and without giving an opportunity of being heard to that advocate court cannot pass any order in the Notice of Motion. Notice of Motion is, therefore, not maintainable. It is disposed of.

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